

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Public Works	(2) MEETING DATE 6/19/2012	(3) CONTACT/PHONE Phil Acosta, Right of Way Agent (805) 781-5290	
(4) SUBJECT Hearing to consider a Resolution of Necessity for the acquisition of real property interests required from John Giacomazzi, et al for the Los Osos Wastewater Project (WBS# 300448).			
(5) RECOMMENDED ACTION It is our recommendation that your Honorable Board: <div style="margin-left: 20px;"> 1. Open and conduct a hearing on the adoption of the Resolution of Necessity, receive comments from the staff, take testimony from the property owners or their authorized representative, and consider all the evidence; and 2. Adopt, by a 4/5ths vote, the Resolution of Necessity on the John Giacomazzi, et al property. </div>			
(6) FUNDING SOURCE(S) Fund Center 430 (LOWWP)	(7) CURRENT YEAR FINANCIAL IMPACT \$583,500.00	(8) ANNUAL FINANCIAL IMPACT N/A	(9) BUDGETED? Yes
(10) AGENDA PLACEMENT <input type="checkbox"/> Consent <input type="checkbox"/> Presentation <input checked="" type="checkbox"/> Hearing (Time Est. <u>60 mins.</u>) <input type="checkbox"/> Board Business (Time Est. <u> </u>)			
(11) EXECUTED DOCUMENTS <input checked="" type="checkbox"/> Resolutions <input type="checkbox"/> Contracts <input type="checkbox"/> Ordinances <input type="checkbox"/> N/A		(12) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: N/A <input checked="" type="checkbox"/> 4/5th's Vote Required <input type="checkbox"/> N/A	
(13) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(14) W-9 <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	
(15) LOCATION MAP Attached	(16) BUSINESS IMPACT STATEMENT? No	(17) AGENDA ITEM HISTORY <input checked="" type="checkbox"/> N/A Date	
(18) ADMINISTRATIVE OFFICE REVIEW <i>Nikki J. Schmidt</i>			
(19) SUPERVISOR DISTRICT(S) District 2 -			

Reference: 12JUN19-H-1

County of San Luis Obispo



TO: Board of Supervisors

FROM: Public Works
Phil Acosta, Right of Way Agent
John Waddell, Project Manager, Los Osos Wastewater Project

VIA: Dave Flynn, Deputy Director of Public Works

DATE: 6/19/2012

SUBJECT: Hearing to consider a Resolution of Necessity for the acquisition of real property interests required from John Giacomazzi, et al for the Los Osos Wastewater Project (WBS# 300448).

RECOMMENDATION

It is our recommendation that your Honorable Board:

1. Open and conduct a hearing on the adoption of the Resolution of Necessity, receive comments from the staff, take testimony from the property owners or their authorized representative, and consider all the evidence; and
2. Adopt, by a 4/5ths vote, the Resolution of Necessity on the John Giacomazzi, et al property.

DISCUSSION

The Los Osos Wastewater Project (Project) has an extensive history. On September 29, 2009, the San Luis Obispo County Board of Supervisors certified a Final Environmental Impact Report, adopted the Findings required by the California Environmental Quality Act, and filed a Notice of Determination for the current project. This report summarizes the purpose and need for the project and the primary alternatives that were studied.

Also, on September 7, 2010, the California Coastal Commission issued a Coastal Development Permit for the Project as Permit Number CDP A-3-SLO-09-055/069. The Coastal Development Permit Application and related Coastal Commission Staff Report provide additional support for the purpose and need for the project as well as support for the planning and location of the project in the manner compatible with the greatest public good and the least private injury.

The Giacomazzi, et al property contains a total of 100.29 acres, is zoned Agriculture, and is improved with a modular home and related agricultural improvements. The County is seeking fee title over an unimproved area of 24.5 acres including a share in any appurtenant rights to a portion of an access way from Los Osos Valley Road to the subject property for the purpose of constructing the water recycling facility required for the Project.

The Property Owners and the County have previously agreed to terms of possession and use of the subject property by Right of Entry Agreement dated October 13, 2011. The recommended action is necessary to initiate legal steps that will ultimately adjudicate the value of the County's acquisition. Negotiations with the owners of the subject parcel will continue, but time constraints require consideration of an action in Eminent Domain to perfect fee title in the name of the County for the required property. Staff recommends that the Board adopt the Resolution of Necessity and initiate formal proceedings. Construction of the Project Water Recycling Facility is scheduled to begin in 2013.

Should your Board adopt this Resolution of Necessity today, the action will, in no way, preclude ongoing discussions and negotiations between the County and the property owner(s). While discussions are continuing between parties, the current process may require several more months before reaching a resolution. The property owners have exercised their right to obtain a second opinion of value for this transaction, at County expense, pursuant to State law.

Federal, State and Local guidelines provide the County with the right to implement Eminent Domain proceedings upon the adoption of a Resolution of Necessity as is submitted for your consideration. The Code of Civil Procedures requires a 4/5ths vote for the adoption of this Resolution.

Owners of the required property and/or their authorized representative are allowed to present comments and evidence in opposition to a Resolution of Necessity only as to the following issues as they may apply to the subject property:

- A. The public interest and necessity require the project;
- B. The project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;
- C. The subject property is necessary for the proposed project; and
- D. The offer required by Section 7267.2 of the Government Code has been made to the subject owner(s) of record.

Any other issues, including value, are not proper subjects for this hearing. It is noted that the Owners of the subject property previously waived all claims and defenses in any subsequent eminent domain proceeding except a claim for just compensation pursuant to the previously noted Right of Entry Agreement. Consequently, the need for the recommended action is for compliance with legal requirements to initiate formal efforts to establish the value of the required property.

OTHER AGENCY INVOLVEMENT/IMPACT

County Counsel has reviewed and approved the subject Resolution as to legal form and effect.

FINANCIAL CONSIDERATIONS

The cost of acquisition of the real property interests required from John Giacomazzi, etal is currently appraised at \$583,500.00. This cost is included in the Project budget.

The Project is funded by a combination of Federal, State, and local sources budgeted in the Los Osos Wastewater Project (WBS# 300448).

RESULTS

Adopting the subject Resolution will allow continued progress toward construction of a community wastewater project for Los Osos by supporting the acquisition of the described real property interests required for the Project.

File: LOWWP 300448.05 (300337.05)

Reference: 12JUN19-H-1

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ATTACHMENTS

1. Vicinity Map
2. Exhibit 1 - Owner and Parcel List
3. Resolution of Necessity for the Real Property Interests required from John Giacomazzi and Janet Kline for the SLO County Los Osos Wastewater Project
4. Exhibit A to Resolution